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Third session

SUMMARY RECORD OF THE 60th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 20 January 1993, at 10 a.m.

Chairman: Mrs. BADRAN

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The meeting was called to order at 10.15 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 44 OF THE CONVENTION (agenda item 11) (continued)

Report of Viet Nam (CRC/C/3/Add.4)

1. At the invitation of the Chairman, Mrs. Tran Thi Thanh Thanh, Mr. Nguyen Luong, Mr. Lam Ngoc Bao, Mr. Hoang Phuoc Hiep and Mrs. Ha Thi Ngoc Ha (Viet Nam) took seats at the Committee table.

2. The CHAIRMAN invited the members of the delegation of Viet Nam to reply to the questions asked by the members of the Committee at the previous meeting.

3. Mrs. TRAN THI THANH THANH (Viet Nam) explained that she would reply to the economic and social questions asked and that a colleague from the Ministry of Justice would reply to the legal questions. In reply to a question by Mr. Mombeshora and to question 38 on the list of issues, she said that there were 54 different ethnic groups in Viet Nam; the Kinh group alone accounted for 87 per cent of the total population. Thus Kinh, or Vietnamese as it was known, was considered to be the national language, although the Nung, Muong, Khmer, Hoa and Thai languages were also commonly used. In accordance with Decision 3/HDBT of November 1991, members of ethnic minorities were entitled to use their own language for primary education, but minority children must also understand the Vietnamese language. Primary-school textbooks existed in the minority languages, but there were difficulties in introducing bilingual teaching owing to the lack of teachers belonging to minority groups. The Convention was widely circulated among the various ethnic groups, but because Vietnamese was considered to be the national language it had not yet been translated into the minority languages.

4. Replying to a question by Mr. Kolosov, she acknowledged that 5 per cent of the national budget devoted to children was not an adequate amount, but the Government was making efforts to increase it. It should be noted that that figure represented only programmes relating to children; budget appropriations for developing the welfare of the population in general also benefited children. Furthermore, the corresponding figure was higher in the local budgets; thus if all contributions to children's welfare were taken into account, the resulting figure would be higher than 5 per cent.

5. In reply to another question by Mr. Kolosov, she said the National Programme of Action for Children had been incorporated into Viet Nam's overall socio-economic programme. Apart from funds from the regular budget, there were supplementary funds for education, care of children and mothers, and appropriations for children in especially difficult circumstances. Replying to a question by Mr. Hammarberg, she said that the Government planned to meet the 50 per cent shortfall in the share of the national budget allocated to children's needs by increasing appropriations and local contributions and eliciting more contributions from international sources.

6. On the Government's plans to improve the system for monitoring the Convention at various levels of Government, she said that they consisted in

establishing a system of indices and indicators to meet the requirements of the National Programme of Action, the World Summit on Children and the Convention itself. In that connection, a network of six centres for the collection of data on children had been established in order to monitor the progress and development of children in the various regions. The data covered, inter alia, infant and maternal mortality rates, malnutrition among pregnant women and children, street-children and schoolchildren in general. The centres worked in conjunction with the Statistics Office, planning commissions and the Committee for the Protection and Care of Children. They also obtained figures from specific sectors, through sample surveys relating to the targets of each sector.

7. Replying to a question by Mrs. Eufemio, she said that in 1991 the Government had promulgated the Strategy for Socio-Economic Stabilization and Development up to the Year 2000, the overall aim of which was to double Viet Nam's GDP by the year 2000. The goals of the Strategy were: (a) to emerge from the current crisis by reducing the inflation rate, stepping up economic reforms, strengthening market mechanisms, increasing the efficiency of the State machinery and fighting corruption; (b) to eradicate hunger and poverty, reduce unemployment, increase domestic savings and draw on foreign resources in an effort to meet the basic needs of the population, while effecting the transition to an industrial society; and (c) to consolidate infrastructure, develop education and increase the country's scientific and industrial capabilities. Under the Strategy everyone was free to open businesses and own property. The economy would be multisectoral, with diversified forms of ownership and enterprise. The National Programme of Action for Children for the period 1991-2000 was integrated into the Strategy.

8. Mgr. Bambaren Gastelumendi and Mrs. Santos Pais had asked about the increase in the number of street-children, child workers and school drop-outs. The main reasons for the increases were the low level of overall economic development and the shift to a new model of economic management, which entailed social difficulties mostly affecting children and women. The national and local authorities were fully aware of the situation and had introduced measures to restrict those negative effects. The measures included the establishment of more centres for street-children and vocational schools, in a combined effort involving the State, the people, mass organizations and international support.

9. Miss Mason had asked about the difference in status between men and women. Feudal thinking still prevailed in certain sectors of the population. That situation was also due to economic factors, including the expansion of tourism.

10. Replying to questions by Mr. Kolosov, she said that Vietnamese legislation banned discrimination on religious grounds. Practically speaking, there had been progress in religious understanding among the people, but there might still be some instances of prejudice at the community level. With regard to the publication of the report, she said that it had not yet been widely circulated, but it had been dispatched to senior members of the Committee for the Protection and Care of Children, the National Assembly and the Government. Part of the report had been published in certain newspapers and discussed on children's radio programmes. There were plans to distribute

the report at the conference to be held in March 1993 on the occasion of the second anniversary of the ratification, of the Convention and the first anniversary of the enactment of the Law on the Protection, Care and Education of Children.

11. In reply to a question by Mr. Gomes da Costa, she said that the Convention had been publicized in children's newspapers and magazines, whose monthly circulation was between 100,000 and 150,000 copies. They were on sale throughout the country, including the mountainous areas, although not all children in those areas had access to them or could afford them.

12. Replying to a question by Mr. Kolosov, she confirmed that the Pioneers were participating in the dissemination of the provisions of the Convention, such activities had, however, been limited in scope.

13. Mrs. Santos Pais had asked a question on education about the provisions of the Convention. She agreed that the Vietnamese population must be familiarized with the provisions of the Convention and that Vietnamese law should capture the spirit of the Convention. In that context, officials in legal departments, the police and prison and education camp wardens must be educated and trained in the implementation of the provisions of the Convention and of national legislation relating to the rights of the child. Her Government would welcome the opportunity to hold training courses with the support of United Nations bodies and other international organizations.

14. Concerning Mr. Kolosov's question about admission to schools, current practice required an application from the parents, which included details of registration of birth and the address of the family; parents were not called upon to submit a curriculum vitae.

15. In reply to Miss Mason's question about Amerasians she said that the total number of Amerasian children was estimated at 20,000, of whom 10,000 had been settled in the United States in accordance with their wishes. There were currently some 4,000 applications for settlement in the United States awaiting consideration by the United States authorities. In view of the fact that such children were scattered throughout the country and that the Government of Viet Nam had also had to deal with a large number of disabled children and children without support, official assistance to Amerasians had not been as speedy as might have been wished. However, Amerasians were not subjected to discrimination nor were they considered to be second-class citizens.

16. Mr. HOANG PHUOC HIEP (Viet Nam), replying to questions from Mr. Kolosov and Mrs. Santos Pais concerning incorporation of the Convention into national law, said that in Viet Nam once a convention had been ratified by the State, it must be expressed in national legislation. In the event of a conflict of law, the Vietnamese court based itself on the domestic law.

17. On the question of the age of majority, which had been raised by Mr. Kolosov, it was stipulated both in the Law on Marriage and the Family and in the Civil Code that the age of majority was 18 years.

18. Replying to another question by Mr. Kolosov, he said that the 1970 Ordinance on the protection and care of children could be compared with

the 1991 Law on the Protection, Care and Education of Children. The former stated, inter alia, that: children were entitled to equal treatment; the family, State and society must care for children, who must be educated and trained; health care must be provided free of charge to children; the dignity of the child must be respected, and children had the right to recreation. Obligations under the Ordinance were that children should love their homeland and compatriots, respect their elders, love their parents, and adopt a serious attitude to education and training. The 1991 law stipulated that: children had the right to have a birth certificate and to know who their parents were; they should be cared for physically, intellectually and morally; children of minority groups in mountain areas should be given appropriate conditions for their protection, care and education; disabled children should be provided with special assistance in treatment and rehabilitation in order to enable them to be reintegrated into social life and placed in special schools; displaced children and children with no support should be brought up by the State and social organizations; children had the right to live with their parents; society should respect and safeguard their physical and social status; they had the right to express their opinions on relevant matters; children should be provided with health care, children under six years of age being provided with such care free of charge; primary education should be provided free of charge; children had the right to recreation and to cultural, sports and tourist activities, in accordance with their age group, and children had the right to property and to inherit. Under the new legislation, their obligations were: to obey the law and to practise a civilized way of life; to show an awareness of their obligations under the Constitution and in national defence; not to gamble, consume alcohol, smoke tobacco or take other harmful drugs; and not to use decadent materials, toys or games prejudicial to their healthy development.

19. Concerning Mr. Hammarberg's question on procedures to ensure the well-being of children in the case of adoption and on choice of nationality, he confirmed that the consent of the child to be adopted must be recorded in writing and that the competent authorities directly asked the child concerned whether he had given his consent before taking a final decision. Should a child change his mind after having given such consent, that would also be taken into account. In practice efforts were made to avoid the inducement of children but that was a complex task and the law therefore made allowance for cancelling adoption authorizations and for the restoration of nationality.

20. In response to questions by a number of members of the Committee concerning criminal responsibility, he referred to article 58 of the Penal Code, which stated that persons under the age of 14 who had committed a serious offence could not incur criminal responsibility. In such cases arrangements could be made for the person concerned to be placed under the supervision of parents and social organizations. Persons between the ages of 14 and 16 years were considered to have limited responsibility for serious criminal offences and persons between 16 and 18 were considered to have limited responsibility for offences of all types. He referred in that connection to chapter 7 of the Penal Code and chapter 31 of the Code of Penal Procedure. In the same context, and in reply to questions 41-44 in the list of issues, he drew attention to article 59 of the Penal Code, which stated that juvenile offenders would be tried and punished for offences incurring their responsibility and that punishment might take the form of education or a

limited term of imprisonment, depending on the nature of the offence. The same article stated that sentences passed on offenders between 14 and 18 years of age were intended to educate them, help them redress the wrong they had done and enable them to develop into good and useful citizens. Families, social organizations and schools played active parts in the implementation of such measures. Chapters 22 and 23 of the Code of Penal Procedure provided for the review of decisions upon appeal by the person concerned or by People's Committees.

21. With regard to question 43, article 58 of the Penal Code provided that children aged 14 but under 16 must bear criminal responsibility for serious offences, which amounted to a form of limited responsibility. Article 59, paragraph 4, stipulated that young offenders must be imprisoned separately from adults. Article 61 provided for a two-year period of supervision by the court, with remission of half the period for satisfactory behaviour. Article 62 provided for compulsory attendance at special schools by young offenders for periods of one to three years, and article 63 provided for re-education without imprisonment.

22. Articles 57 and 63 of the Penal Code stipulated that young offenders could not be sentenced to long terms of imprisonment or to death and specified a series of lighter punishments than for adults. Punishment by fine and all additional forms of punishment were prohibited, and any sentence could be commuted to a period of education.

23. The CHAIRMAN said that the information about programmes and measures met some of the concerns raised and was welcome; but there appeared to be no plans to tackle, the problem of the inferior status of women, for example.

24. Mrs. SANTOS PAIS welcomed the information given and the openness of the Vietnamese delegation concerning the need for training for law enforcement officials, especially those employed in detention centres, where cases of maltreatment of children had been reported. Since such maltreatment was a criminal offence, she hoped that offenders were punished under the law. She would like to know whether there were any procedures for children to lodge complaints or any independent machinery for the inspection of detention centres. There was also the problem of maltreatment of children within the family. In that connection she asked whether any measures had been introduced in Viet Nam in accordance with article 19 of the Convention.

25. Mr. HAMMARBERG said that it might be useful to analyse the issue raised by Mrs. Santo Pais in the light of articles 19, 28 and 37 of the Convention, which were based on the precept that adults must exercise restraint even when they had the power to maltreat children. Was there any debate on the issue in Viet Nam? The first step was to recognize the problem, and the second was to change attitudes. Legislation alone was not sufficient.

26. Mrs. TRAN THI THANH THANH (Viet Nam) said that efforts were being made in Viet Nam to eliminate discrimination against women. Educational, cultural and legal measures had been enacted and put into practice. However, women were still held in lower regard than men. Discrimination was gradually declining, with increased participation by women in the country's social and economic life, but elimination of the problem would take a long time, for changes in

lifestyle and thinking were needed. Progress in the elimination of discrimination against women would depend largely on the country's social and economic development.

27. The Committee for the Protection and Care of Children tried to guard against maltreatment of children in detention centres and had inspection machinery at the local level. The issue was also a responsibility of a special commission on youth questions of the National Assembly, and mass organizations such as the Youth Union, the Women's Union and the Federation of Trade Unions were also involved. However, the problem persisted, and Viet Nam was trying to improve the functioning of the inspection system.

28. In Viet Nam families having a good level of education seldom maltreated their children. Probably, therefore, elimination of the problem would take a long time because it depended on a general rise in standards of education. Furthermore, Vietnamese families had little exposure to scientific theories of child upbringing. The Government had introduced legal measures to prevent maltreatment of children, but attitudes towards children must be changed as well, and that would be a long process. However, she could report that cases of maltreatment of children in schools were now very rare.

29. Mgr. BAMBAREN GASTELUMENDI said that he was still worried about the social situation of children in Viet Nam. The Committee had been told that 50 per cent of the needs of children were not met, and the report indicated that increasing numbers of children were abandoning school. Furthermore, the number of child workers was not quantified and no description was given of the type of work done. Drug abuse and child prostitution were also on the increase. The Vietnamese Government was clearly concerned about children in principle, but the challenge of halting the deterioration in their social situation was an enormous one.

30. The CHAIRMAN suggested that the Vietnamese delegation should respond to the point just made by Mgr. Bambaren Gastelumendi at a later stage under the sections on education and special protection.

The meeting was suspended at noon and resumed at 12.20 p.m.

31. The CHAIRMAN invited the Vietnamese delegation to respond to questions 22 to 30 concerning family environment and alternative care.

32. Mrs. TRAN THI THANH THANH (Viet Nam) said that specific legal provisions, in particular articles 18 and 26 of the Law on Marriage and the Family, provided for the right of children of separated parents to maintain contacts with both father and mother (issue 22). For example, the parent having custody could not prevent a child from receiving gifts or visits from the other parent. In addition, social organizations and the mass media disseminated information and carried out campaigns at the family level concerning the legal requirements and took action to ensure that children kept in contact with both parents and to prevent any violation of their rights in that respect.

33. In relation to issue 23 about the care of children with divorced parents, article 19 of the Law on Marriage and the Family stated that parents were

obliged to ensure the physical, moral and intellectual development of their children whether the parents were together or not. Article 42 of the same Law stipulated that, in the event of divorce, the interests of the children must be respected. Article 45 of the Law stated that the level of maintenance should be decided by a court and the maintenance enforced under civil law. If the party responsible for bringing up the child had financial or other problems, the other party should make a contribution according to his or her ability to pay, on the basis of agreement. If an agreement could not be reached, then article 43 provided for a decision to be made by the court.

34. When determining the level of maintenance, the courts took into consideration the economic situation of the interested parties and proceeded on a case-by-case basis. When a divorce was settled in court, the level of maintenance was determined by the court at the same time. If parental obligations were not fulfilled, the court could order stronger measures at the request of the legal representative of the child or the State bodies concerned. Such measures could be applied under civil law or sometimes criminal law. Her Government had observed the specific procedures in force in various countries in connection with that question, through international agreements on legal cooperation. Apart from legal measures, social organizations had campaigned to persuade parents to fulfil their obligations.

35. Adoptive children (issue 24) had the same rights as children living in their natural families. They could be registered in the household of their adoptive family and could also have a birth certificate.

36. Foreigners wishing to adopt a Vietnamese child must be at least 20 years older than the child and give various undertakings, which included registering the child with the appropriate local authorities, submitting an annual report until the child reached 18 years of age, providing all the care needed in cases where the child was disabled, supporting the child in education and vocational training, and producing proof of their own health, moral eligibility and financial status. Children over the age of nine were required to give their consent to the adoption. Legal provisions existed to ensure that the adopted child would be well cared for and that the hand-over of the child would be carried out strictly in accordance with the law.

37. With regard to issue 25 on protecting children from serious abuse within the family, the details of procedures for intervention were given in article 24 of the Law on the Protection, Care and Education of the Child and article 27 of Decision 374 HDBT of 14 November 1991. In addition, the Penal Code (arts. 101, 117 and 147) stipulated the penalties, applicable in such cases, which included the possibility of up to three years' imprisonment. Articles 20, 21 and 23 of the ordinance, which determined fines in civil cases, provided for fines of up 20,000 dong, which could be levied on the spot, and for temporary detention pending administrative procedures. As to criminal procedures, the Penal Code ensured the protection of the citizen from abuse of his or her health, property, and human dignity; such abuses could be punished by arrest and detention. Furthermore, the competent authorities had the right to intervene in cases of maltreatment, and where necessary, to take such cases to court.

38. Moving on to issue 26, research into the abuse of children, it should be noted that most studies were being undertaken in Viet Nam's larger legal and criminal science research institutes. A number of papers on the subject had been presented in foreign countries and at international conferences. Although research into young offenders had been carried out in the Law Department of the University of Hanoi, the resultant study had not been particularly well used in the campaign to prevent child abuse. No larger-scale studies with deeper social significance had been carried out as yet.

39. With regard to systems for monitoring institutions for alternative care, as mentioned under issue 27, the Social Affairs Committee of the National Assembly and the People's Committees from provincial to village levels, together with the Ministry of Labour, Invalids and Social Affairs and the authorities under the Ministry, had the duty to implement legislation governing institutions for alternative care, and to monitor and evaluate them. The Ministry of the Interior, the People's Supervisory Board and the people's courts dealt with violations of that legislation. In addition, the Homeland Front and its constituent organizations were allowed to monitor the institutions, and the mass media were free to investigate and report on them. The institutions themselves had to report on the implementation of regulations at regular intervals and to make unscheduled reports wherever necessary. It must be admitted that the reporting system was very efficient at present.

40. In commenting on issue 28, which dealt with gambling, drug abuse, prostitution and general crime among children, she would also take up the questions raised by Mgr. Bambaren Gastelumendi. The report dealt with the issue and pointed out that it was a primarily urban phenomenon. It was hoped to combat it by long-term measures such as economic development, raising living standards and establishing a sound social environment, but in the meantime specific measures had been adopted. They involved sharing education between the school, family, social organizations and the State. Where possible, each child was given a special education. A campaign had been launched in the media, and sport and cultural activities initiated. Vocational and other courses were being instituted for children. Charities and individuals had been asked to sponsor children with difficulties. Legally, severe measures had been taken against drug traffickers, pimps, brothel-keepers and others who corrupted minors, and her Government was trying to obtain greater international cooperation and support in the fight against crime. In that connection, it should be noted that Viet Nam had joined Interpol in 1991. A national mechanism was being built up to combat drug abuse and to encourage the cultivation of profitable crops as a substitute for opium.

41. Information on issue 29, which related to parental education, would also provide an answer to the questions put by Mrs. Santos Pais. Firstly, various club activities had been established; secondly, social campaigns, intended for example to improve family life, had been initiated; and thirdly, the activities of organizations specifically concerned with the family were promoted.

42. Civil registrars had received special training on under-age marriages (issue 30). They could ask the parties concerned to produce identification

papers and to make a written statement confirming their eligibility for marriage. Public announcements of engagements could be made in order to ascertain that the conditions for marriage had been met. The Penal Code (art. 145) stipulated that persons who organized under-age marriages or were party to them could be served with a warning, or be required to take a self-education course of up to one year, or be sentenced to two years' imprisonment. In addition, the State and social organizations were educating people in ob servance of the law on under-age marriages.

43. The CHAIRMAN thanked the representatives of Viet Nam for the extensive information they had provided.

The meeting rose at 1.05 p.m.